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RUZEJAA/USNIC SARAJEVO

C O N F I D E N T I A L SECTION 01 OF 03 SARAJEVO 000599

SIPDIS

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EUR FOR DICARLO, EUR/SCE (HOH, FOOKS, STINCHCOMB); NSC FOR BRAUN; OSD FOR BEIN

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SUBJECT: BOSNIA - POLICE REFORM APPEARS HEADED FOR ANOTHER DEADLOCK

REF: A. SARAJEVO 521

[1B.](#) SARAJEVO 506

[1C.](#) SARAJEVO 488

[1D.](#) SARAJEVO 363

[1E.](#) SARAJEVO 245

[1F.](#) 07 SARAJEVO 2670

Classified By: Michael J. Murphy, Reasons 1.4 (b), (d).

[¶1.](#) (C) SUMMARY: The prospects for passage of draft police legislation on April 2 do not look good. If the legislation is not adopted, it is unlikely that Bosnia will sign a Stabilization and Association Agreement (SAA) later this month, as the EU had suggested might be possible. Passage depends on Milorad Dodik's Alliance of Independent Social Democrats (SNSD) and Haris Silajdzic's Party for Bosnia-Herzegovina (SBiH) reaching agreement on the text of amendments proposed by the latter. Thus far, agreement between the two has proved elusive. SBiH has been insisting on amendments that ensure the extension of the competencies of new state-level police bodies to entity police in the future. SNSD has consistently rejected this proposal. On March 20, SNSD rebuffed a compromise SBiH offer to replace its amendments with language from the political agreements Dodik, Silajdzic and other party leaders had signed on police reform in late 2007. The Party for Democratic Action's (SDA) rejection of the police reform legislation and accusations that SBiH support for it betrays Bosniak victims of genocide by guaranteeing the existence of the Republika Srpska (RS) police have undercut Silajdzic's standing among Bosniaks. This has made him and SBiH negotiators more insistent on amendments that would provide the party with some sort of political cover. Dodik and SNSD have been selling the legislation to Bosnian Serbs as a painless vehicle for securing the SAA because the reforms do not change in the RS police in any way. This has constricted Silajdzic's political room for maneuver by effectively confirming in the eyes of many Bosniaks the validity of Tihic's criticisms. At the same time, it has increased the potential political costs for SNSD of accepting an amendment that appears to legally commit the RS to a second phase of police reform. END
SUMMARY

A Refresher on How We Got Here: Part - I

[¶2.](#) (SBU) In early 2008, the Police Reform Working Group (PRWG) failed to reach consensus on the text of two draft laws intended to create the seven state-level police bodies

envisioned in the Mostar Declaration and the Sarajevo Action Plan, which were signed by the leaders of the six ruling parties in 2007 (Ref E and F). SDA refused to support the draft laws, arguing they were inconsistent with the EU's three police reform principles, would not result in meaningful reform, and would entrench an RS police structure implicated in genocide. SBiH supported most of the draft provisions, but insisted on amendments containing "transitional language" that would prospectively extend the competencies of the seven new bodies to the local level after constitutional reform. SNSD objected to SBiH's amendments on legal and policy grounds. The Council of Ministers (CoM) approved the laws, but rejected the SBiH amendments. Though SBiH opposed the laws in the CoM, it pledged to support them in Parliament if they were amended. Ultimately, the draft laws were killed by the Joint Committee on Defense and Security (JCDS). Parliament never considered the draft laws, and SBiH never had the opportunity to present its amendments to them (Ref B and C).

SNSD Blocks the Urgent Procedure Gambit: Part II

¶13. (C) On March 20, proponents of the draft laws attempted to bypass the JCDS and to reintroduce them under urgent procedure. Since legislation considered under urgent procedure cannot be amended, the SBiH and SNSD members House of Representatives (HoR) Collegium (i.e., the three HoR Speakers) spent several hours later that day trying to reach agreement on acceptable amendments. OHR helped mediate these exchanges, and at one point, secured SBiH agreement to drop the prospective text in its amendments and substitute language directly from the Mostar Declaration and Sarajevo

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Action Plan that referred to: 1) the three EU police reform principles; and, 2) the party leaders' commitment to a second round of police reform. However, SNSD refused to accept even these amendments, which OHR characterized privately as "Mostar compliant." Despite the deadlock, SBiH and SNSD committed to make another effort to reach a compromise and to reintroduce amended legislation -- under urgent procedure -- at the House of Representatives, April 2 session.

The Current SBiH-SNSD Impasse

¶14. (C) At a March 29 press conference, SBiH Collegium member Beriz Belkic, along with Silajdzic staffer Damir Arnaut, indicated that SBiH would insist upon the original text of their party's amendments. They confirmed privately to OHR that the March 20 offer was "no longer on the table." Milorad Dodik authorized Bosnian Serb member of the Tri-Presidency Member Radmanovic to negotiate with Silajdzic over the police reform laws. On April 1, Radmanovic reportedly proposed including the text of the Mostar Declaration and Sarajevo Action Plan as annexes to the laws. Silajdzic rejected the proposal, arguing that annexes "would have no legal value." He proposed what he labeled "new" amendments, but according to OHR, the texts were identical to the SBiH amendments rejected by the CoM. At an April 1 press conference, Radmanovic rejected Silajdzic's proposal idea, stating that, while SNSD supports the two agreements, "sometimes political statements cannot be incorporated into the law." Silajdzic has since left for the NATO Summit in Bucharest. The Collegium would have added a compromise version of the two draft laws to the agenda of Parliament's April 2 session, but that now appears unlikely. As of late April 1, SNSD and SBiH are raising the possibility of introducing their own versions of the legislation on April 2, which would almost certainly fail. We understand that HDZ-BiH member of the Collegium Niko Lozanic also plans to table a compromise proposal on April 2.

15. (C) Silajdzic says he wants an SAA, but his priority since the October 2006 elections has always been constitutional reform. His main concern with regard to police reform has been avoiding a deal that might somehow pre-judge future constitutional reform by leaving current RS police structures in place. Hence, Silajdzic was willing to sign the Mostar Declaration and Sarajevo Action Plan, which conceded entity-level police reform in return for a commitment from Dodik to reform entity police as part of a post-SAA constitutional reform process. This would allow Silajdzic to claim that he had locked Dodik into a constitutional reform process that would go beyond the U.S.-brokered package of constitutional amendments even as he secured the SAA. SDA President Tihic's decision to walk away from the Mostar Declaration and attack Silajdzic and SBiH for agreeing with Dodik to a "phony reform" upset Silajdzic's political calculations. Tihic's assertion that Silajdzic signed an agreement that preserves the RS police and "legitimizes" them and his argument that Dodik has essentially duped Silajdzic have hurt Silajdzic politically.

16. (C) As Tihic's attacks on Silajdzic have mounted, SBiH has grown more insistent on securing its amendments to the draft police reform laws. The prospective language in SBiH's amendments, which seeks to guarantee that the new police structures would have authority over local police structures in the next phase of police reform, was designed, in part, to address Silajdzic's growing political problems with Tihic. In other words, they would allow Silajdzic to claim that he had laid the legal groundwork for the new state-level police structures to eventually supersede (read abolish) entity police structures. Along those lines, Silajdzic recently claimed, "we have our text (with the SBiH amendments) which has been on the table since the very beginning, this is what we all signed i.e., Mostar Declaration and Sarajevo Action Plan. If we all accept that, we will have the signature with EU and we will not cement the existing state."

The Politics of Police Reform: Dodik and SNSD

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17. (C) Dodik says he wants an SAA, but his principle aim throughout police reform negotiations has been to preserve the RS police and avoid meaningful reform, particularly reform that required the transfer of any competencies to the state. Dodik secured this objective by agreeing to the Mostar Declaration and Sarajevo Action Plan and making a non-binding political commitment to reform entity police structures at a later date. Dodik has not been shy about touting his triumph. He has actively sold the current police reform legislation as a major SNSD victory that will allow signing of the SAA and ensure the continued existence of the RS police. While Dodik has not disavowed his Mostar Declaration commitment to a second phase of police reform, he has emphasized to RS audiences that the next phase of police reform is distant, sometimes implying it may not happen at all. Thus far, Dodik and his SNSD surrogates have also steadfastly resisted translating the political commitments contained in the Mostar Declaration and Sarajevo Action Plan into potentially legally binding language. Hence, SNSD's rejection of the March 20 compromise. Finally, Dodik has publicly stated that if the draft police legislation fails, he and his party will not begin a new police reform process.

ENGLISH